UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,642	06/27/2001	Kenneth H. Abbott	M1103.70784US00	1958

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EXAMINER
CLOUD, JOIYA M

ART UNIT	PAPER NUMBER
2444	

NOTIFICATION DATE	DELIVERY MODE
10/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
	09/894,642	ABBOTT ET AL.
Office Action Summary	Examiner	Art Unit
	Joiya M. Cloud	2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 August 2009*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *66,67,71,74,75,77,78,82,174,175,181,184-191,193 and 194* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *66,67,71,74,75,77,78,82,174,175,181,184-191,193 and 194* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date *09/02/2010 and 09/21/2010*.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

This action is responsive to the communication filed on 08/25/2010.

66,67,71,74,75,77,78,82,174,175,181, 184-191, and 193-194 are PENDING in this application.

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 08/19/2009 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and
distinctly claiming the subject matter which the applicant regards as his invention.

Claim 189 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

Claim 189 recites the limitation "the remote mobile computer" in line 1. There is

insufficient antecedent basis for this limitation in the claim.

Response to Arguments

A)   "However, the command unit of Jacobson does not use the location data or physiological

status to model "a second value of the second state attribute....the second value modeled by

abstracting a user activity derived from the first values, the first values being from a lower level of abstraction than the second value."

As to the above point A), Examiner respectfully disagrees. Examiner notes that the instant claim provides no specific definition for the step of "modeling", but rather merely recites that values are modeled by *"abstracting a user activity derived from the first values, the first values being from a lower level of abstraction than the second value"*. Therefore, Jacobsen teaches the modeling of a second value indicated by the abstracting of a user activity derived from the first values (i.e. determining based on the sensor values that the soldier is conditionally in a hypothermic activity). Moreover, the instant claim does not indicate ***how*** a user activity is *abstracted* or require any specific/particular user activity to occur. Therefore, Jacobsen teaches multiple recitations of abstracting (determining) a user activity of the soldier unit (i.e. determining based on first values, i.e. physiological and location values that the soldier is injured, has hypothermia or is loosing blood, see col. 4, lines 2-8, lines 40-60). Examiner advises Applicant to further amend the instant claim to reflect how such modeling and/or abstraction is performed.

B   "Further, the command unit of Jacobson does not transmit "the at least a portion of the current state from the system to the mobile computer, the at least a portion of the current state including the second value indicating the user activity."

As to the above point, B), please refer to the new ground(s) of rejection below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 66, 67, 71, 72, 74, 75, 77, 78, 82, 174, 175, 181, 184-191 and 193-194 are rejected under 35 U.S.C. 102(e) as being anticipated by **Jacobsen et al. (US Patent No. 6,198,394 B1).**

As per claims 66, Jacobsen discloses a method for operating a user characterization system which executes on a computer separate from a remote user wearing a thin client wearable computer to provide information about a current state of the remote user of a thin client wearable computer **(Figure 1 and col. 1, lines 35-53)**, the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes **(col. 3, lines 35-50)**, state client modules to process values for the state attributes **(col. 3, lines 35-50)**, and an intermediary module to facilitate exchange of state attribute values (col. 15, lines 52-col. 16, lines 1-22), the method comprising:

under control of each of at least one of the SSMs of the user characterization system, gathering information about the current state of the remote user wirelessly from the thin client wearable computer, generating values for at least one of the state attributes based on the gathered information, and sending the generated values to the intermediary module **(col. 6, lines**

21-36, where Jacobsen teaches a soldier unit that gathers the received physiological data

from the sensors and transmits it to the media unit in a remote location/medic unit);

under control of each of at least one of the SCMs of the user characterization system,

receiving values for at least one state attribute from the intermediary module and performing

processing based on the received values **(col. 11, lines 40-50 and col. 13, lines 39-45);**

under control of the intermediary module of the user characterization system, facilitating

exchange of values by, receiving the sent values for the state attributes from the SSMs **(col. 11,**

lines 40-50, col. 12, lines 40-44, col. 13, lines 17-28);

automatically, with at least one processor, modeling values of the other state attributes

based at least in part on the sent values of the state attributes by abstracting a transient

physiological user condition derived from the sent values of the state attributes of a lower level

of abstraction **(col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and**

col. 13, lines 17-45, Examiner notes that Applicant has provided no explicit definition

further limiting the claim regarding a lower level of abstraction, but merely exemplifies

the levels of abstraction as heart rate and EKG and location and speed physiological user

conditions, see where Jacobsen discloses in the Abstract-heart rate values are abstracted

and soldier positioning abstracted from the global positioning module, col. 7, lines 21-31);

sending at least some of the received state values and at least some of the modeled other state

attribute values to the SCMs **(col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4,**

lines 1-10, and col. 13, lines 17-45);

and interacting with the thin client wearable computer the interacting comprising

providing information about the current state of the remote user to the thin client wearable

computer and receiving information about the current state of the remote user from the thin

client wearable computer, the interacting being based at least in part on the modeled other state

attribute values **(col. 9, lines 11-19, col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-**

col. 4, lines 1-10, and col. 13, lines 17-45).

As per claim 67, Jacobsen further discloses wherein the thin client wearable computer

includes an output device, and wherein the interacting with the thin client wearable computer

includes sending information for presentation to the user on the output device **(Figure 3, col. 9,**

lines 20-49 and col. 11, lines 40-50).

As per claim 71, Jacobsen, wherein the thin client wearable computer lacks resources

accessible to the computer executing the user characterization system, and wherein the

interacting with the thin client wearable computer includes receiving a request to access at least

one of the resources on behalf of the thin client wearable computer and accessing those resources

in response **(col. 9, lines 15-20 and col. 10, lines 21-33).**

As per claim 72, Jacobsen further discloses wherein the at least one resources include

processing capabilities of the computer executing the user characterization system, wherein the

accessing of those resources includes using the processing capabilities on behalf of the thin client

wearable computer, and including sending an indication of results to the thin client wearable

computer **(col. 9, lines 15-20 and col. 10, lines 21-33).**

As per claim 74, Jacobsen further discloses wherein the at least one resources include a

computer-readable storage medium of the computer executing the user characterization system,

and wherein the accessing of those resources includes storing information received from the thin

client wearable computer on the computer-readable storage medium **(col. 7, lines 13-23 and col. 4, lines 9-20).**

As per claim 75, Jacobsen further discloses wherein the computer executing the user characterization system has a sensor receiving information about the user of the remote thin client wearable computer, and wherein the gathering of the information about the current state of the remote user by at least one of the SSMs includes obtaining information from the sensor **(col. 6, lines 45-57).**

As per claim 77, Jacobsen further discloses wherein the gathering of the information about the current state of the user by at least one of the SSMs includes obtaining information from at least one sensor that is part of the thin client wearable computer **(Figure 1 and col. 6, lines 45-57).**

As per claim 78, Jacobsen further discloses wherein the performing of the processing based on the received values by at least one of the SCMs includes supplying information to at least one output device that is part of the thin client wearable computer **(Figure 3 and col. 11, lines 40-50 and col. 13, lines 39-45).**

As per claim 82, Jacobsen further discloses wherein at least some of the SSMs are available to supply values for additional state attributes of a current state other than for the user, and wherein the intermediary module additionally sends values for the additional state attributes to SCMs **(col. 11, lines 29-39)**

As per claim 174, Jacobsen teaches wherein: the state attributes comprise a geopgrahic location and speed, generating values under control of each SSM comprises generating values for the state attributes of geographic location and speed, abstracting the transient physiological user

condition derived in part from the sent values of the state attributes for the geographic location and the speed **(col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10, and col. 13, lines 17-45, Examiner notes that Applicant has provided no explicit definition further limiting the claim regarding a lower level of abstraction, but merely exemplifies the levels of abstraction as heart rate and EKG and location and speed physiological user conditions, see where Jacobsen discloses in the Abstract-heart rate values are abstracted and soldier positioning abstracted from the global positioning module, col. 7, lines 21-31)**, and interacting with the thin client wearable computer comprises wirelessly transmitting transient physiological user condition to the thin client wearable computer from the user characterization system. **(col. 9, lines 11-19, col. 10, lines 38-44, col. 14, lines 50-60, col. 11, lines 40-50, col. 12, lines 40-44, col. 3, lines 57-col. 4, lines 1-10).**

As per claim 175, Jacobsen teaches wherein the abstracting the transient physiological user condition comprises characterizing or inferring in part from the sent values of the state attributes which are based on physical activity of the user the user's current activity **(col. 8, lines 8-16 and see col. 13, lines 38-45).**

As per claim 181, Jacobsen teaches wherein the transient physiological user condition derived in part from the sent values of the state attributes based in part on ambient environmental information **(Abstract, col. 8, lines 50-65 and col. 16, lines 9-22).**

As per claims 184 and 185, Jacobsen teaches further comprising abstracting the transient physiological condition of exercising and of talking **(col. 6, lines 25-29 and col. 2, lines 50 -55).**

As per claim 190, Jacobsen teaches receiving data about the environment of the remote

user from the fixed sensors coupled to the first computer and from remote sensors operating at

the remote location (col. 8, lines 45-64); obtaining first values for at least one of the state

attributes based on the data received form the fixed and remote sensors (col. 9, lines 7-33);

automatically modeling second values of other state attribute based at least in part on the first

values, the second values modeled by abstracting a transient physiological user condition derived

from the first value, the first value being from a lower level of abstraction than the second

values; and transmitting information about the current state of the remote user from the system to

the mobile computer, the information about the current state including at least one of the second

values (col. 9, lines 7-33 and col. 11, lines 50-61, col. 9, lines 7-20, and col. 13, lines 17-46).

As per claim 193, as per claim 193, claim 193 is substantially the same as claim 66 but

in system form rather than method form. Therefore, the rejection for claim 66 applies equally as

well to claim 193.

As per claim 194, Jacobsen teaches where: the system further comprises the mobile

computer includes an output device, and interacting with the thin client wearable computer

includes sending information about the current state for presentation to the remote user on the

output device (Figure 3, col. 9, lines 20-49 and col. 11, lines 40-50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

Claims 186-189 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Jacobsen et al. (US Patent No. 6,198,394 B1) in view of **Grube et al (U.S. Patent No.**

6,031,455).

As per claim 186, Jacobsen teaches a system that communicates wirelessly with a mobile

computer at a remote location to provide information about a current state at the remote location,

the current state modeled with the multiple state attributes, the system comprising: a receiver; a

transmitter; a processor configured to execute computer-executable instructions for performing a

process of: obtaining first values for at least one of the state attributes based on sensor data

wirelessly received from the mobile computer through the receiver **(col. 9, lines 8-33 and col.**

14, lines 37-44 and col. 11, lines 50-61, col. 9, lines 7-20, and col. 13, lines 17-46); modeling a

second value of a second state attribute based at least in part on the first values, the second

values modeled by abstracting a condition derived from the first values, the first values being

from a lower level of abstraction than the second value **(the claim lacking any specific mention**

of how second values are modeled is interpreted as recited in the instant claim, as being

"*modeled by abstracting a user activity derived from the first values, the first values being a*

lower level of abstraction than the second value,*" Jacobsen teaches in col. 14, lines 23-26 and

lines 38-49 abstracting a user activity derived from first values)

Jacobsen does not explicitly teach wirelessly transmitting through the transmitter the at

least a portion of the current state from the system to the mobile computer, the at least a portion

of the current state including the second value indicating the user activity.

Grube teaches wirelessly transmitting through the transmitter the at least a portion of the

current state from the system to the mobile computer, the at least a portion of the current state

including the second value indicating the user activity **(col. 3, lines 4-26).**

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of

the invention to have modified the teachings of Jacobsen to the teachings of Grube for the

purpose of providing feedback to a user **(col. 3, lines 27-39)**.

As per claim 187, Jacobsen teaches wherein the current state is the current state of a

remote user of the mobile computer **(col. 9, lines 20-33).**

As per claim 188, Jacobsen teaches wherein the remote computer is a thin client

computer that is wearable by the remote user and has an output device for presenting the

information about the current state of the remote user received from the system **(col. 9, lines 20-**

33).

As per claim 189, Jacobsen teaches wherein the remote computer is a thin client

computer that is wearable by the remote user and has an output device for presenting the

information about the current state of the remote user received from the system **(col. 9, lines 20-**

33).

CONCLUSION

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The

examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-3922.   Information

regarding the status of an application may be obtained from the Patent Application Information

Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

Art Unit 2444   October 22, 2010

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444